

PROB 12C
(NEP 4/2013)

SEALED
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

3^rd Amended Petition for Warrant or Summons for Offender Under Supervision

Offender: Michael James Tyndall

Docket No. 8:13CR00209

Type of Supervision: Supervised Release

Date of This Report: December 3, 2020

Sentencing Judge: The Honorable Joseph F. Bataillon
Senior U.S. District Judge

Offense of Conviction: Sex Abuse of Minor or Ward

Date Sentenced: June 6, 2014

Original Sentence: 60 Months Bureau of Prisons; 120 Months Supervised Release

Supervision Term: February 20, 2018 through February 19, 2028

Prepared By:
David R. Anderson

Assistant U.S. Attorney:
Lecia Wright

Defense Attorney:
David R. Stickman

PETITIONING THE COURT

The undersigned probation officer recommends that a petition be filed and a warrant be issued so that a hearing can be held by the Court to determine whether the offender has violated the conditions of supervision as set forth in this report and to determine whether the offender's supervision should be revoked or continued, modified, and/or extended based on the alleged violations. Currently, Mr. Tyndall's next violation hearing is scheduled for December 17, 2020. Allegation #6 has been added to the petition to reflect the newest alleged conduct.

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The probation officer believes the offender has violated the following conditions of supervision:

<u>Allegation No.</u>	<u>Nature of Noncompliance</u>
1	Michael James Tyndall is in violation of the Mandatory Condition which states, "The defendant shall not commit another federal, state, or local crime." On July 4, 2019, Mr. Tyndall was arrested by Omaha Tribal Police for Sex Offender Residency and Loitering Restrictions. These charges are still pending disposition.
2	Michael James Tyndall is in violation of Standard Condition #7 which states, "The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician." On September 4, 2018, Mr. Tyndall admitted to the undersigned officer and tested positive for methamphetamine.
3	Michael James Tyndall is in violation of Special Condition # which states, "The defendant shall have no contact, nor reside with children under the age of 18, including their own children, unless approved in advance by the U.S. Probation Officer in consultation with the treatment providers. The defendant must report all contact with children to the U.S. Probation Officer and the treatment provider. Should the defendant have contact with a child, the defendant is required to immediately remove him/herself from the situation and notify his/her U.S. Probation Officer within 24 hours of this contact." On Sunday, October 20, 2019, the undersigned officer and USPO Erdman conducted an unannounced home contact of Mr. Tyndall's residence. It was discovered that there were children residing in the home. Mr. Tyndall admitted that there were children in the home when officers noted children's toys outside the residence. The children (nine year old female and four year old male) are residing in the residence. Mr. Tyndall had not notified this officer of contact with minors nor had he removed himself from the situation. The undersigned officer interviewed the children's mother who indicated that she and her two children had been residing in the home for approximately one month.
4	The defendant shall attend, pay for and successfully complete any diagnostic evaluations, treatment or counseling programs, or approved support groups (e.g., AA/NA) for alcohol and/or controlled substance abuse, as directed by the probation officer. On March 9, 2020, the undersigned officer received a progress statement from the Omaha Alcohol Program indicating that Mr. Tyndall has been inconsistent with treatment and that he has tested positive for methamphetamine. The Omaha Alcohol Program reports that they are looking for treatment options for Mr. Tyndall.
5	The defendant is in violation of Special condition which states "You must undergo a sex offense-specific evaluation and participate in a sex offender treatment and/or mental health treatment program approved by the probation officer. You must abide by all rules, requirements, and conditions of the sex offender treatment program(s), including submission to polygraph testing. You must sign releases of information to allow all

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professionals involved in your treatment and monitoring to communicate and share documentation. You must pay for these services as directed by the probation officer."

On May 8, 2020, the undersigned officer was notified by Resolution Treatment staff that Mr. Tyndall ceased attendance and would be terminating the contract for sex offender services.

6 The defendant shall attend, pay for and successfully complete any diagnostic evaluations, treatment or counseling programs, or approved support groups (e.g., AA/NA) for alcohol and/or controlled substance abuse, as directed by the probation officer.

On December 1, 2020, Mr. Tyndall advised the undersigned officer that he had been unsuccessfully discharged from The Link in Norfolk. The undersigned officer confirmed with Link staff that Mr. Tyndall had been discharged for rule violations.

Assistant U.S. Attorney Michael P. Norris has been notified of this action.

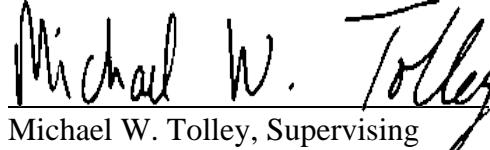
I declare under penalty of perjury that the forgoing is true and correct.

Respectfully submitted,



David R. Anderson
U.S. Probation and Pretrial Services Officer

Reviewed by:



Michael W. Tolley, Supervising
U. S. Probation and Pretrial Services Officer

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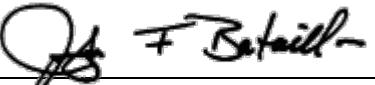
THE COURT ORDERS THAT:

 No action shall be taken.

A Warrant shall be issued for service upon Michael James Tyndall and a hearing held by the Court to determine whether Michael James Tyndall has violated the conditions of supervision as set out in the foregoing report and to determine whether the term of supervision should be revoked, continued, modified, and/or extended based on the alleged violations.

The U. S. Probation Officer shall summons Michael James Tyndall to appear for a hearing in court to determine whether Michael James Tyndall has violated the conditions of supervision as set out in the foregoing report and to determine whether the term of supervision should be revoked, continued, modified, and/or extended based on the alleged violations.

The following action to be taken (specify other action):



The Honorable Joseph F. Bataillon
Senior U.S. District Judge

12/3/2020

Date

* * * NOTICE TO OFFENDER * * *

Pursuant to the Federal Rules of Criminal Procedure 32.1(b)(2) you are entitled to:

- (A) written notice of the alleged violation(s);
- (B) disclosure of the evidence against you;
- (C) an opportunity to appear, present evidence, and question adverse witnesses unless the court determines that the interest of justice does not require the witness to appear;
- (D) notice of your right to retain counsel or to request that counsel be appointed if you cannot obtain counsel.